

## **REMARKS/ARGUMENTS**

### **1.) Claim Amendments**

Applicant has amended claims 1, 15, and 28. Applicant respectfully submits no new matter has been added. Accordingly, claims 1-41 are pending in the application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

### **9.) Claim Rejections – 35 U.S.C. § 103 (a)**

Claims 1-4, 8, 9, 11, 12, 15-18, 22, 23, 25, 26, 28-32, 36, 37, 39 and 40 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Reiner (EP 0948168) in view of Turina, *et al.* (US 2005/0054348) and Jenq (US 2003/0063560). While not conceding that the cited references qualify as prior art, but instead to expedite prosecution, Applicant has chosen to respectfully disagree and traverses the rejection as follows. Applicant reserves the right, for example, in a continuing application, to establish that the cited references, or other references cited now or hereafter, do not qualify as prior art as to an invention embodiment previously, currently, or subsequently claimed.

Applicant respectfully submits that claims 1-4, 8, 9, 11, 12, 15-18, 22, 23, 25, 26, 28-32, 36, 37, 39 and 40 are patentable because the combination of Reiner, Turina, and Jenq fails to disclose, teach, or even suggest the elements of the amended independent claims for at least the following reasons. In support of the rejection of an earlier element of amended independent claim 1 (“a network entity receiving ... information, over another connection separate from the bit transfer session, from a radio resource managing unit about the bandwidth on the entire wireless link the bit transfer session currently is allowed to use ..., where the network entity is separate from the radio resource managing unit...” (*Emphasis added*)) the Examiner has referenced over sixteen different paragraphs of Reiner, paragraph [0059] of Turina, and paragraph [0037] of Jenq. Turina and Jenq were referenced to address deficiencies of Reiner, as described on page 28 of the Non-Final Office Action.

To reject “information ... from a radio resource managing unit about the bandwidth on the entire wireless link that the bit transfer session is allowed to use,

where the network entity is separate from the radio resource managing unit" (as recited in the independent claims), the Examiner cites paragraphs [0041] (lines 5-11), [0042] (lines 1-12), [0054] and [0055] (lines 1-11) of Reiner. Those cited paragraphs of Reiner discuss:

[0041] (lines 5-11) According to another preferred embodiment, the bandwidth value associated with the link is the actual bandwidth value available to the packet exchange connection at said link. The latter embodiment takes into account that more than one connection can be running through the link.

[0042] (lines 1-12) In accordance with a further preferred embodiment, only one bandwidth value is taken into account, namely the available bandwidth of the access link. The access link is the link between the device at the end of the packet exchange connection and the next router along the packet exchange connection. This embodiment leads to the bottleneck link being defined on the basis of the bandwidth of the access link, so that the possibility of congestion at said access link can be reduced. The access link being measured can be either that of the device acting as a sender in the connection, or that of the device acting as the receiver.

[0054] (lines 9-12) One possibility is to have the routers along the connection add these bandwidth values to packets being sent to the receiver, or more preferably to acknowledgment packets being returned to the sender.

In other words, the cited passages of Reiner discuss the bandwidth on a link between a sender and receiver. Also, the cited passages of Reiner discuss other nodes (e.g., routers) located along the link to add bandwidth values to packets traveling along the link. However, according to page 28 of the Non-Final Office Action, Reiner does not explicitly discuss "a network node being a radio resource managing unit; over another connection separate from the bit transfer session." In order to address these deficiencies of Reiner, the Examiner cites paragraph [0059] of Turina for the notion that a network node could be a radio resource managing unit (a point which Applicant does not concede). The Examiner also cites paragraph [0037] of Jenq for the notion that "acknowledgement messages are sent on a different connection" (a point which Applicant also does not concede) to address the fact that Reiner does not disclose "receiving ... information, over another connection separate from the bit transfer session ... about the bandwidth on the entire wireless link that the bit transfer session currently is allowed to use....," as recited in the independent claims.

Since Reiner's routers are located along the link and are used to add bandwidth values to packets traveling along the link, the routers only have knowledge of the bandwidth of the link between the sender and the router (e.g., in-bound link bandwidth information). The router has no knowledge of the bandwidth of the entire link between the sender and receiver. In stark contrast, the amended independent claims recite "information ... from a radio managing unit about the bandwidth on the entire wireless link that the bit transfer session currently is allowed to use." In other words, the recited radio managing unit is aware of and sends bandwidth information regarding entire wireless link used by the bit transfer session. One with skill in the art would not even expect the cited references to disclose, teach, or even suggest "receiving ... information, over another connection separate from the bit transfer session ... about the bandwidth on the entire wireless link that the bit transfer session currently is allowed to use..." as recited in the independent claims because the location of Reiner's routers along the link provides an incomplete view of the total available bandwidth, which fails to account for the unpredictable nature of wireless links (See e.g., page 1, lines 25-29 of the present specification: "The bandwidth that is available for a radio connection in a mobile communication network may vary very fast due to changes in the characteristics of the air-interface caused by e.g., fading dips or shadowing, or due redistribution of the assigned bandwidth to the users in a cell.)

Thus, for at least these reasons, claims 1-4, 8, 9, 11, 12, 15-18, 22, 23, 25, 26, 28-32, 36, 37, 39 and 40 are patentable. Applicant therefore respectfully requests that the rejection be withdrawn.

Claims 5, 6, 19, 20, 33 and 34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Reiner (EP 0948168), Turina, *et al.* (US 2005/0054348) and Jenq (US 2003/0063560) as applied to claims 1/15/28, further in view of Wolfe, *et al.* (US 6,907,455). Wolfe is not cited as disclosing, teaching, or even suggesting the elements of independent claims 1, 15, and 28. Thus, claims 5, 6, 19, 20, 33, and 34 are patentable over Reiner, Turina, Jenq, and Wolfe, taken alone or in any permissible combination, at least due to their dependency on amended independent claims 1, 15, or 28. Applicant therefore respectfully requests that the rejections be withdrawn.

Claims 7, 21 and 35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Reiner (EP 0948168), Turina, *et al.* (US 2005/0054348) and Jenq (US 2003/0063560) as applied to claims 1/15/28, further in view of Lee, *et al.* (US 2003/0233453). Lee is not cited as disclosing, teaching, or even suggesting the elements of independent claims 1, 15, and 28. Thus, claims 7, 21, and 35 are patentable over Reiner, Turina, Jenq, and Lee, taken alone or in any permissible combination, at least due to their dependency on amended independent claims 1, 15, or 28. Applicant therefore respectfully requests that the rejection be withdrawn.

Claims 10, 24 and 38 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Reiner (EP 0948168), Turina, *et al.* (US 2005/0054348) and Jenq (US 2003/0063560) as applied to claims 1/15/28, further in view of Walding (US 6,031,845). Walding is not cited as disclosing, teaching, or even suggesting the elements of independent claims 1, 15, and 28. Thus, claims 10, 24, and 38 are patentable over Reiner, Turina, Jenq, and Walding, taken alone or in any permissible combination, at least due to their dependency on amended independent claims 1, 15, or 28. Applicant therefore respectfully requests that the rejection be withdrawn.

Claims 13, 27 and 41 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Reiner (EP 0948168), Turina, *et al.* (US 2005/0054348) and Jenq (US 2003/0063560) as applied to claims 1/15/28, further in view of Holma, *et al.* (US 2002/0136192). Holma is not cited as disclosing, teaching, or even suggesting the elements of independent claims 1, 15, and 28. Thus, claims 13, 27, and 41 are patentable over Reiner, Turina, Jenq, and Holma, taken alone or in any permissible combination, at least due to their dependency on amended independent claims 1, 15, and 28. Applicant therefore respectfully requests that the rejection be withdrawn.

**CONCLUSION**

In view of the foregoing remarks, the Applicant believes all of the claims currently pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for all pending claims.

The Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,

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